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HARRISBURG, PA

SEP 08 2000

MARVE E. D'ANDREA, CLERK
Deputy ClerkIN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,

Plaintiff

v.

DR. ROBERT CLARK, *et al.*,

Defendants

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Civil Action No. 1:00-CV-1090
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(Chief Judge Rambo)
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:
(Magistrate Judge Smyser)
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:**CORRECTIONS DEFENDANTS' MOTION TO REVOKE PLAINTIFF'S
IN FORMA PAUPERIS STATUS AND TO DEFER FILING OF
RESPONSIVE PLEADING TO PLAINTIFF'S AMENDED COMPLAINT**

Defendants Martin L. Dragovich, John A. Palakovich, Robert M. Novotney, Michael J. Kazor and John Andradet ("Corrections Defendants"), hereby move, pursuant to 28 U.S.C. § 1915(g), to revoke plaintiff's *in forma pauperis* status. Corrections Defendants also move, pursuant to Fed.R.Civ.P. 6, to defer the filing of a responsive pleading to plaintiff's Amended Complaint until a determination of this motion to revoke has been made and, if granted, until plaintiff pays the filing fee. As grounds for these motions, Corrections Defendants aver the following:

1. In at least two other cases, plaintiff's *in forma pauperis* status was revoked on the basis that he was subject to the "three strikes" provision of the Prison Litigation Reform Act,

28 U.S.C. § 1915 (g), and had at least three such strikes.

2. Those two cases are *Jae v. Dr. R. Long, M.D., et al.*, No. 1:CV-98-0115 (USDC, M.D. Pa.) and *Jae v. Capt. R. Glenny, et al.*, No. 1:CV-98-1515 (USDC, M.D. Pa.).
3. A copy of the decisions revoking plaintiff's *in forma pauperis* status in the foregoing two cases are attached as Exhibits 1 and 2 in the Appendix to this motion.
4. Defendants understand that plaintiff's *in forma pauperis* status was also revoked in *Jae v. Horn*, No. 1:CV-98-0114 (USDC, M.D. Pa.).
5. Plaintiff requested *in forma pauperis* status in this case and his request was granted in an Order from this Court dated June 21, 2000.
6. Nothing in the matters alleged in the Complaint or the First Amended Complaint herein distinguish this case from the revocation ruling in the foregoing cases.
7. Since plaintiff has three strikes against him within the meaning of 28 U.S.C. § 1915(g), his *in forma pauperis* status in this case should be revoked.
8. In *Jae v. Dr. R. Long, M.D., et al.*, No. 1:CV-98-0115 (USDC, M.D. Pa.), the suit was dismissed after plaintiff failed to pay the filing fee as he was ordered to in the court's ruling of September 22, 1998. *See* Exhibit 3 in the Appendix to this motion
9. Since plaintiff may again fail to pay the filing fee (since, as was represented in his *in forma pauperis* request, he is without means), this suit may also be dismissed.
10. The Corrections Defendants obligation to respond to the First Amended Complaint should be deferred until such time as it is certain that this lawsuit will go forward.

11. Corrections Defendants should not be put to the trouble and effort of responding to the First Amended Complaint when there is a likelihood that this litigation will not go forward following the revocation of plaintiff's *in forma pauperis* status.

CONCLUSION

WHEREFORE, in light of the foregoing, Corrections Defendants respectfully request that this Court revoke plaintiffs' *in forma pauperis* status, require him to pay the filing fee in full for this civil action and defer Corrections Defendants' response to the First Amended Complaint until plaintiff pays the filing fee.

Respectfully submitted,



ROBERT M. WOLFF

Assistant Counsel

Attorney Identification No. 42798

Counsel for Correction Defendants

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Dated: September 8, 2000

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(Chief Judge Rambo)

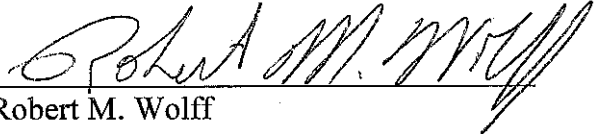
(Magistrate Judge Smyser)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true and correct copy of the foregoing
CORRECTIONS DEFENDANTS' MOTION TO REVOKE PLAINTIFF'S *IN FORMA*
PAUPERIS STATUS upon the person(s) in the manner indicated below.

Service by first-class mail
addressed as follows:

John Richard Jae, BQ-3219
SCI – Camp Hill
P.O. Box 200
Camp Hill, PA 17001-0200


Robert M. Wolff
Assistant Counsel
Attorney I.D. No. 42798

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Dated: September 8, 2000